

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

FUSN1-01102US0

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name _____

Application Number

09/618,954

Filed

July 19, 2000

First Named Inventor

Edgar Allan Tu

Art Unit

2141

Examiner

Coulter, Kenneth R.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/Brian I. Marcus/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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Typed or printed name

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Registration number if acting under 37 CFR 1.34 _____

May 14, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

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*Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application)	PATENT APPLICATION
)	
Inventors: Tu, et al.)	
)	Art Unit: 2141
Application No.: 09/618,954)	
)	Examiner: Coulter, Kenneth R.
Filed: July 19, 2000)	
)	Customer No. 28554
Title: METHOD AND APPARATUS FOR)	
A SECURE REMOTE ACCESS SYSTEM)	
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request consideration of the following remarks and arguments in connection with the Pre-Appeal Brief Request for Review submitted herewith.

REMARKS

Prior to filing an appeal brief, Applicants respectfully request that a panel of examiners formally review the legal and factual basis of the rejections in their application in accordance with the Pre-Appeal Brief Conference Pilot Program announced in the *Official Gazette*, 12 July 2005. This request is being filed simultaneously with a Notice of Appeal.

Applicants assert that the rejections of record are clearly not proper and are without basis. Legal and factual deficiencies exist in the rejections, as set forth hereinafter.

I. Summary of Rejections

Claims 1-6 and 23-26 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,167,120

II. Argument

Kikinis relates to a home server unit including a communication bus, a processor and memory for connecting digital devices within the home server interface unit. The home server unit is connected to a plurality of PCs and other peripherals. The home server unit includes a network and telephone adaptor for connecting to a wide area network and to a telephony device. The processor manages data transfers between connected PCs/peripherals and one or more service providers accessed via the wide-area network. As stated in Kikinis, embodiments of the invention are directed to “[solving] the existing problem of providing wide area network access to multiple computerized appliances without requiring multiple service accounts.” (Kikinis, Col. 2, line 45-47).

Each of claims 1-6 and 23-26 recite, in one form or another, a system for providing access to “a base device identified with a user of a remote client device,” where the communication between the remote device and the base device is initiated by the base device. In particular:

- “a user server operatively coupled to said web server and said remote client device, said user server further configured to communicate data between the base device and the user of the remote client device, said user server further configured to communicate data with said base device via requests initiated by said base device.” (Claims 1-6).
- “communicating data between the base device and the remote client device via said user server from requests initiated by said base device.” (Claims 23-26).

In general, in accordance with the present invention, a user of a remote device 54 will make a request (for example to read or write information) that is communicated to a user server module 18. Periodically, the base device 42 will initiate contact with the user server module 18 to see if a request has come in. This feature is explained in the present application for example at page 23, lines 14-23:

Preferably, communications between the base device 42 and the Sili server 30 are initiated by the base device 42. For example, a base device 42 which maintains a full time Internet connection is generally configured to periodically communicate "job request" commands at a predetermined interval (e.g., forty (40) seconds) to the Sili server 30. In response, the Sili server 30 may indicate "no job" or "job request by a user server module". "No job" is communicated where the user associated with the base device 42 is not requesting data at this time. "Job request by a user sever module" is communicated when the user associated by the base device 42 is requesting data (which is indicated to

the Sili server 30 by the agent communication module 60 as noted above).

The advantages of such a system are explained in the present application at page 26, line 19 through page 27, line 8:

As described above, communication sequences between the system 10 (Sili server 30 and user server module 18) and the base device 42 are generally initiated by the base device 42, rather than the system 10. . . This arrangement provides several advantages which overcomes problems associated with the prior art. First, security is increased since the data communications are initiated by the base device rather than by the system 10. By requiring the base device to initiate communication (and therefore establish a connection socket), hacking into the base device from the outside becomes a more difficult task. Additionally, the invention may be practiced even if the base device is behind firewall because the base device initiates communication and opens the connection to the agent communication module, thereby allowing reply communications and task commands to be communicated from the agent communication module.

Kikinis does not disclose, teach or suggest a system that is responsive to a base device as recited in claims 1-6 and 23-26. Kikinis is wholly unrelated to addressing the problem of increased security and accessing secure information from a base device behind a firewall. The Examiner indicated that the feature of requests being initiated by the base device was shown in Kikinis, specifically in the “Abstract, Fig. 1, Col. 4, lines 30-55 and Col. 2, lines 30-47” of the reference. (This, incidentally, is the same section cited by the Examiner as showing the earlier claim limitation relating to the user server being configured to communicate data between the base device and the remote client device.)

However, applicants respectfully submit that the claimed invention including requests initiated by the base device identified with a user is not shown at the cited portions of the reference, nor anywhere else within the reference. In the claimed invention, it is recited that communications are initiated by a base device “identified with a user.” It is clear that there is no express disclosure anywhere within Kikinis of a system responsive to a base device, nor a system responsive to a base device identified with a user. If the Examiner is alleging that Kikinis none-the-less teaches such a feature, the Examiner has made no such showing beyond the cursory cite to the support within Kikinis.

It is axiomatic that each and every claim limitation must be found in a single prior art reference to support a rejection under §102. *Apple Computer, Inc. v. Articulate Systems, Inc.*, 234 F.3d 14, 20 (Fed. Cir. 2000). Omission of any claimed element, no matter how insubstantial, is grounds for traversing a rejection based on §102. *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542 (Fed. Cir. 1983). As Kikinis has no disclosure, teaching or suggestion of a remote access system where communication is initiated by the base device, and as Kikinis does not even address the problem to which this solution is directed, it is respectfully submitted that the invention recited in Claims 1-6 and 23-26 is patentable over the cited reference. It is therefore respectfully requested that the rejection of these claims on §102 grounds be withdrawn.

Applicant has pointed the above-described deficiencies out to the Examiner in the previous response to Office action. The Examiner fails to address applicants' arguments in the current Office action. In particular, in the previous response, applicants pointed out the specific claim language not appearing in Kikinis, and then went on to give the support from the specification which explains the specific claim language. In the Response to Arguments section of the current Office action, at page 4, the Examiner ignores applicants' statements relating to specific claim language, and refers only to applicants' discussion of the specification (which supports the recited claim language). The Examiner then concludes that reliance on the specification is not proper – it is the claim language which must be the focus.

Applicants agree. Applicants pointed out in the previous response, and in this response, that Kikinis fails to disclose, teach or suggest the feature of a system responsive to a base device, and fails to disclose a system responsive to a base device identified with a user. These features are expressly recited in the claims. If the Examiner maintains the rejection, it is respectfully requested that the Examiner show the specific support in Kikinis, and provide specific explanation, of where the above-described express claim limitations are shown in Kikinis. Applicants respectfully submit that no such disclosure exists in Kikinis.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: May 14, 2007

By: /Brian I. Marcus/

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